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<PREAMB>

<AGENCY TYPE='S'>CONSUMER PRODUCT SAFETY COMMISSION

<CFR>16 CFR Part 1227

<DEPDOC>[Docket No. CPSC-2013-0019]

<SUBJECT>Safety Standard for Carriages and Strollers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In March 2014, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for carriages and strollers under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard when a voluntary standards organization revises the standard. This direct final rule updates the mandatory standard for carriages and strollers to incorporate by reference ASTM's 2021 version of the voluntary standard.

DATES: The rule is effective on February 15, 2022, unless CPSC receives a significant adverse comment by December 20, 2021. If CPSC receives such a comment, it will publish a document in the *Federal Register*, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of February 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CPSC- 2013-0019, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. The CPSC does not accept comments submitted by electronic

mail (e-mail), except through <https://www.regulations.gov> and as described below. The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7479.

Alternatively, as a temporary option during the COVID-19 pandemic, you can email such submissions to: cpsc-os@cpsc.gov.

Instructions: All submissions received must include the agency name and docket number for this direct final rule. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2013-0019, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814-4408; telephone: 301-504-6820; email: kwalker@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1)(B) of the CPSIA, also known as the Danny Keysar Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires these standards to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The CPSIA also sets forth a process for updating CPSC’s durable infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed. Section 104(b)(4)(B) of the CPSIA provides that if an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. In addition, the revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

2. The Carriage and Stroller Standard

On March 10, 2014, the Commission published a final rule issuing a standard for carriages and strollers that incorporated by reference the standard in effect at that time, ASTM F833-13b, with a modification to address potential hazardous openings created by adjustable grab bar/tray and foot rest configurations. 79 FR 13208. The standard was codified in the Commission’s regulations at 16 CFR part 1227. There have been several revisions to the ASTM standard. On June 9, 2016, the Commission incorporated by

reference ASTM F833-15, as the mandatory standard for carriages and strollers. 81 FR 37128. On August 2, 2019, the Commission incorporated by reference ASTM F833-19, as the mandatory standard for carriages and strollers. 84 FR 37763. ASTM F833-19 is the current mandatory standard incorporated by reference in 16 CFR part 1227.

On August 19, 2021, ASTM notified CPSC that it had revised the voluntary standard for carriages and strollers, approving ASTM F833-21 on June 15, 2021.¹ As discussed in this preamble, based on CPSC staff's review of ASTM F833-21, the Commission will allow the revised voluntary standard to become the mandatory standard because the revised requirements in the voluntary standard either improve the safety of carriages and strollers, or are safety neutral. Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F833-21 will become the mandatory consumer product safety standard for carriages and strollers on February 15, 2022. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1227 to incorporate by reference the revised voluntary standard, ASTM F833-21.

B. Revisions to ASTM F833

The ASTM standard for carriages and strollers establishes performance requirements, test methods, and labeling requirements to address hazards to children associated with carriages and strollers including stability, brakes, restraint systems, latches and folding mechanisms, structural integrity, cords, wheel detachments, and entrapment. ASTM has revised the ASTM F833-19 voluntary standard for carriages and strollers. On June 15, 2021, ASTM approved a revised version, ASTM F833-21, which was published in August 2021. This section describes the changes in ASTM F833-21. The 2021 revision contains editorial, non-substantive changes, as well as several substantive changes to improve the requirements. We summarize the differences and the CPSC's assessment of the revisions below.

¹ ASTM published ASTM F833-21 in August 2021.

1. Substantive Changes

Allowance for a concrete floor test surface

ASTM F833-19 Section 4.1 specifies that testing be conducted “on a concrete floor that shall be covered with 1/8-in. (3-mm) thick vinyl floor covering, unless test instructs differently.” ASTM F833–21 replaces, in section 4.1, the word “shall” with “may,” allowing for testing on the originally specified surface, or on an uncovered concrete floor. This change applies to all carriages and stroller tests, except parking brake testing (Section 7.6), which is conducted on a horizontal test surface covered with 60 grit sandpaper, and wheel detachment from axle testing (Section 7.13.1), which is conducted on a table.

CPSC staff assessed the effect of the new test surface requirement and found that the allowing for testing on the originally specified surface, or on an uncovered concrete floor, did not have an impact on test results. Staff concluded that the allowance for an uncovered concrete floor test surface in addition to the current concrete floor covered with 1/8-inch-thick vinyl floor test surface does not affect the safety of carriages and strollers, because test results should be the same on either surface. In addition, staff determined that the revised language would be consistent with other ASTM juvenile product standards. Based on staff’s assessment, the Commission concludes that the new test surface requirement is neutral with respect to the safety of carriages and strollers.

Summary List of References on combination unit of a car seat on a stroller

ASTM F833-19 provided the impact test in Section 6.7.1 with its corresponding test method in Section 7.11, and the head entrapment requirement in Section 6.10 with its test method in 7.18. However, these sections were not included in the summary list of requirements that apply to a combination unit of a car seat on a stroller in Section 6.6.1. ASTM F833–21 now adds references to Section 6.7.1 and Section 6.10, as well as their corresponding test methods, to the list of requirements in Section 6.6.1. Section 6.7.1

applies to a “combination unit of a car seat on a carriage, stroller, or convertible carriage/stroller” and Section 6.10 applies to a “combination unit of a rear-facing car seat on a stroller or convertible carriage/stroller.” Staff’s review showed that the additions to the list of requirements that apply to a combination unit of a car seat on a stroller in Section 6.6.1 is neutral with respect to safety and does not affect the safety of carriages and strollers, because there are no changes to the requirements, test methods, or category of product to which they apply. This addition simply restates the requirements with which a combination unit of a car seat on a stroller must conform. Based on staff’s assessment, the Commission concludes that the addition of the references is neutral to the safety of carriages and strollers.

Addition of parking brake mechanism test methods

ASTM F833–19 section 6.1.3 specifies that “[e]ach parking brake shall be constructed so that it cannot be disengaged by the child within the unit when the child is secured in the unit in accordance with the instructional literature.” ASTM F833-21 replaces this text and adds three alternative test methods in new sections 6.3.1.1, 6.3.1.2, and 6.3.1.3, for evaluating the parking brake release mechanism for each seating position of the product as follows:

- Section 6.3.1.1: Each parking brake mechanism is outside of the access zone, which is defined as: the volume above the seat within a 21.7-inch radius from the mid-point of the junction line on the uncompressed upper surface of the seat unit and extending 21.5 inches to each side (as shown in Figure 7 of ASTM F833–21) and a 2-inch band extending inward from each side of the seat/leg rest edge and downward for 5.9 inches from the uncompressed upper surface of the seat (as shown in Figure 8 of ASTM F833–21). The space located behind the backrest is excluded from the parking brake access zone for single-occupant strollers but is included for

multi-occupant product configurations if it enters another parking brake access zone.

- Section 6.3.1.2: The parking brake release mechanism consists of one single-action release mechanism that shall not be released when a force of 10 lbf (45 N) or a torque of 3 lbf-in. (0.34 Nm) is applied directly to the release mechanism in the direction tending to release it.
- Section 6.3.1.3: The parking brake release mechanism is a double-action release mechanism, which is defined in ASTM F833–21 as, “a release mechanism that requires either two consecutive actions, the first of which must be maintained while the second is carried out, or two separate and independent single-action locking mechanisms that must be activated simultaneously to fully release.”

Staff’s review of ASTM F833–19, shows that existing section 6.1.3, which provides that “[e]ach parking brake shall be constructed so that it cannot be disengaged by the child within the unit” lacks specificity and fails to provide a test protocol or evaluation method. The assessment of whether a child can disengage the parking brake is currently left up to the testing laboratory’s test personnel discretion, which could result in a lack of consistency and repeatability of testing between testing laboratories. Although staff is not aware of any incidents involving the child disengaging the parking brake, the potential for a child to disengage the parking brake is a foreseeable hazard. To address this hazard, ASTM F833–21 adds a test method that includes a defined access zone, a specific force and torque, and an evaluation of the mechanism that is based on similar testing used in other standards.

Staff’s assessment of section 6.3.1.1 shows that this test improves the safety of the standard by defining an access zone, and accounting for products with multiple seats that may provide easier access to the parking brake mechanism. Staff’s assessment of section

6.3.1.2 shows that this test improves safety by adding a force and torque requirement where there was none previously. Finally, staff's review of the section 6.3.1.3 shows that although the specific reference to a double-action release mechanism was added in this section, the definition for a double-action release mechanism has been in existence since the ASTM F833–13a version of the standard. Staff's assessment shows that the addition of this reference in this section improves safety by specifying the basis for evaluating the parking brake system. Based on staff's assessment, the Commission concludes that the addition of parking braking mechanism test methods improves the safety of carriages and strollers.

2. Non-substantive Changes

ASTM made minor formatting changes to the ASTM F833-21 including:

(1) renumbering figures to account for two new parking brake figures (Figures 7 and 8 of ASTM F833–21), (2) addition of hyphens to compound adjectives, (3) addition of units to the first value in range, and (4) revision of punctuation and spacing. The Commission finds that all the non-substantive changes made in ASTM F833-21 are neutral regarding safety for carriages and strollers because they are editorial in nature.

Based on CPSC's review of ASTM F833-21, the Commission will allow the revised standard to become the mandatory standard for carriages and strollers, without modification. This direct final rule updates 16 CFR part 1227 to incorporate by reference the revised voluntary standard, ASTM F833-21.

C. Incorporation by Reference

Section 1227.2 of the direct final rule incorporates by reference ASTM F833-21. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the

material. In addition, the preamble to the final rule must summarize the material. 16 CFR 51.5(b).

In accordance with the OFR regulations, section **B. Revisions to ASTM F833**, of this preamble summarizes the major provisions of ASTM F833-21 that the Commission incorporates by reference into 16 CFR part 1227. The standard is reasonably available to interested parties. Until the direct final rule takes effect, a read-only copy of ASTM F833-21 is available for viewing on ASTM's website at:

<https://www.astm.org/CPSC.htm>. Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at:

<https://www.astm.org/READINGLIBRARY/>. Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7479; email: cpsc-os@cpsc.gov. Interested parties can purchase a copy of ASTM F833-21 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; phone; 610-832-9585; www.astm.org.

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051-2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under

section 104(b)(1)(B) of the CPSIA are “consumer product safety standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because carriages and strollers are children’s products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1227 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,² the phthalates prohibitions in section 108 of the CPSIA³ and 16 CFR part 1307, the tracking label requirements in section 14(a)(5) of the CPSA,⁴ and the consumer registration form requirements in section 104(d) of the CPSIA.⁵

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission has previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing carriages and strollers (79 FR 13208 (March 10, 2014)). The NORs provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing carriages and strollers to 16 CFR part 1227. The NORs are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies.” 16 CFR part 1112.

The revisions to ASTM F833-21 will not require any significant changes in the way that third party conformity assessment bodies test carriages and strollers. Therefore, the Commission considers existing CPSC-accepted testing laboratories that have demonstrated competence for testing in accordance with ASTM F833-19 will have the competence to test in accordance with the revised standard ASTM F833-21 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted

² 15 U.S.C. 1278a.

³ 15 U.S.C. 2057c.

⁴ 15 U.S.C. 2063(a)(5).

⁵ 15 U.S.C. 2056a(d).

third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations.

F. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551-559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency, "for good cause finds," that notice and comment are "impracticable, unnecessary, or contrary to the public interest." *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's mandatory standard by operation of law. The Commission is allowing ASTM F833-21 to become CPSC's new mandatory standard. The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the update provision of section 104 of the CPSIA, ASTM F833-21 takes effect as the new CPSC standard for carriages and strollers, even if the Commission does not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer

product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95-4, the Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on February 15, 2022. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be “one where the commenter explains why the rule would be inappropriate,” including an assertion challenging “the rule’s underlying premise or approach,” or a claim that the rule “would be ineffective or unacceptable without change.” 60 FR 43108, 43111. As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612) generally requires agencies to review proposed and final rules for their potential economic impact on small

entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section **F. Direct Final Rule Process** of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The current mandatory standard for carriages and strollers includes requirements for marking, labeling, and instructional literature that constitute a “collection of information,” as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501-3521). While the revised mandatory standard updates the provisions for marking, labeling, and instructional literature regarding consistency and clarity to be consistent with other ASTM voluntary standards, the revised mandatory standard does not alter these requirements substantively. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1227, including obtaining approval and a control number. Because the information collection is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

I. Environmental Considerations

The Commission’s regulations provide a categorical exclusion for the Commission’s rules from any requirement to prepare an environmental assessment or an environmental impact statement where they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This rule falls within the categorical

exclusion, so no environmental assessment or environmental impact statement is required.

J. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

K. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the standard for carriages and strollers. Therefore, ASTM F833-21 automatically will take effect as the new mandatory standard for carriages and strollers on February 15, 2022, 180 days after the Commission received notice of the revision on August 19, 2021. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this notification, the rule will become effective on February 15, 2022.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801-808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a “major rule.” Pursuant to the CRA, this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

<LSTSUB><HED>List of Subjects in 16 CFR Part 1227

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety, Toys. </LSTSUB>

For the reasons stated above, the Commission amends title 16 CFR chapter II as follows:

<PART><HED>PART 1227 – SAFETY STANDARD FOR CARRIAGES AND STROLLERS

<REGTEXT TITLE='16 ' PART=' 1227 '>

<AMDPAR>1. The authority citation for part 1227 continues to read as follows:
<AUTH><HED>**Authority:** <P>The Consumer Product Safety Improvement Act of 2008, Pub. L. 110-314, § 104, 122 Stat. 3016 (August 14, 2008); Pub. L. 112-28, 125 Stat. 273 (August 12, 2011). </REGTEXT><REGTEXT TITLE=' 16 ' PART=' 1227 '>

<AMDPAR>2. Revise § 1227.2 to read as follows:
<SECTION><SECTNO>**§ 1227.2** <SUBJECT>**Requirements for carriages and strollers.**

Each carriage and stroller shall comply with all applicable provisions of ASTM F833-21, Standard Consumer Safety Performance Specification for Carriages and Strollers, approved June 15, 2021. The Director of the Federal Register approves this

incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at <https://www.astm.org/READINGLIBRARY/>. You may obtain a copy from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959; phone: (610) 832-9585; www.astm.org. You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504-7479, email: cpsc-os@cpsc.gov, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html. </REGTEXT>

<TITLE>Secretary,
Commission.</SIG>

<SIG><NAME>Alberta E. Mills,
U.S. Consumer Product Safety

<FRDOC> [FR Doc. 2021–25140 Filed 11–17–21; 8:45 am]
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